DOCUMENT RESUME

ED 469 222 EA 031 999

AUTHOR	Giovannetti, Elizabeth; Ahearn, Eileen; Lange, Cheryl
TITLE	Charter Schools and the Education of Children with Disabilities. Second Edition.
INSTITUTION	National Association of State Directors of Special Education, Washington, DC.; Charter Friends National Network, St. Paul, MN.
SPONS AGENCY	Department of Education, Washington, DC.
PUB DATE	2001-05-00
NOTE	39p.; Prepared for Special Education Working Group, Charter Friends National Network.
AVAILABLE FROM	Charter Friends National Network, 1295 Bandana Blvd, Suite 165, St. Paul, MN 55108. Tel: 651-644-6115; Fax: 651-644-0433; e-mail: jon@charterfriends.org; Web site: http://www.charterfriends.org. For full text: http://www.charterfriends.org/ specialed.pdf.
PUB TYPE	Guides - Non-Classroom (055)
EDRS PRICE	EDRS Price MF01/PC02 Plus Postage.
DESCRIPTORS	*Charter Schools; *Disabilities; *Educational Legislation; Elementary Secondary Education; Federal Legislation; Federal Regulation; Public Policy; *School Law; *Special Education; Special Needs Students; State Legislation; State Regulation

ABSTRACT

This resource guide provides an overview of special-education laws and issues related to K-12 education for those interested in starting or currently operating a charter school, for host or sponsoring school districts, and for state departments of education. It is essential that charter-school operators and staff who are in any way responsible for the education of students with disabilities become fully familiar with federal and state laws, regulations, and policies that apply to the provision of special education in charter schools. This guide is meant to provide a framework for those needing information about special-education issues that impact on charter schools, and to advise charter schools of the rights of children with disabilities and their obligation to serve them. After the introduction and a brief history of special education, two sections delve into the separate matters of statutory and case-law requirements for special education, and issues for charter schools in the implementation of special education. A concluding section provides thoughts for policymakers and recommendations for charter-school personnel and state agency personnel. An appendix lists additional sources of information, and describes the growing role of "Charter Friends..." and the Charter Friends National Network. (RT)

Reproductions supplied by EDRS are the best that can be made
from the original document.

ED 469 222

Charter Schools and the Education of Children With Disabilities

U.S. DEPARTMENT OF EDUCATION
Office of Educational Research and Improvement
EDUCATIONAL RESOURCES INFORMATION CENTER (ERIC)
☑ This document has been reproduced as received from the person or organization originating it.
☐ Minor changes have been made to improve reproduction quality.
• Points of view or opinions stated in this document do not necessarily represent official OERI position or policy.

Second Edition, May 2001

EA 031 999

BEST COPY AVAILABLE

Charter Schools and the Education of Children with Disabilities

Second Edition, May 2001

Revised By:

Elizabeth Giovannetti, LICSW

Choice Strategies Group

Eileen Ahearn, Ph.D.

National Association of State Directors of Special Education

Cheryl Lange, Ph.D.

Consultant

Prepared for:

Special Education Working Group
Charter Friends National Network

The original version of this document was produced in 1997 by Project FORUM at the National Association of State Directors of Special Education with support from the U. S. Department of Education. However, the opinions expressed herein do not necessarily reflect the position or policy of the U. S. Department of Education, and no official endorsement by the Department should be inferred.

Origins and Authors of this Resource Guide

This is the second edition of a pioneering work on special education and charter schools that was originally produced in 1997 by Project FORUM at the National Association of State Directors of Special Education with support from the U. S. Department of Education. However, the opinions expressed herein do not necessarily reflect the position or policy of the U. S. Department of Education, and no official endorsement by the Department should be inferred.

Chief authors of the original publication -- who also collaborated on this update -- were Eileen Ahearn of the National Association of State Directors of Special Education and Cheryl Lange, a Minnesota-based consultant. Joining Eileen and Cheryl in drafting the revision was Elizabeth Giovannetti, a Washington, D.C.-based consultant with Choice Strategies Group and director of the recently established D.C. Public Charter School Cooperative. In her capacity with Choice Strategies Group, Beth also provides staff support to the Charter Friends National Network's Special Education Working Group (see below).

About the Charter Friends Special Education Working Group

Charter schools are public schools with an obligation to serve all students who seek enrollment. That includes special needs students, many of whom have not been well served in large, traditional district public schools. Indeed doing a better job of serving special needs students -- satisfying and involving parents and producing better academic results for students -- is a major motivation behind many charter school founders and operators. But serving students with special needs also presents special challenges to charter founders and operators. These opportunities and challenges form the basis for an important initiative on special education launched by the Charter Friends National Network (CFNN) over the past two years.

Like all of its initiatives, leadership for CFNN's work on special education is coming from the grassroots, in this case from an informal working group of state charter support organization leaders, state and local education officials, parent advocacy organizations and charter school directors and teachers. The CFNN Special Ed Working Group is chaired by Chenzie Grignano, director of the Duquesne University Charter School Project in Pittsburgh, and Lynn Lavely, director of the Florida Charter School Resource Center at the University of South Florida in Tampa. To get on the working group's mailing list, contact CFNN at jon@charterfriends.org

During its first year, the CFNN working group focused its efforts on monitoring several national research projects on special education, identifying key challenges facing charters in delivering and financing special ed services and tracking the emergence of several promising strategies for expanding technical assistance and other support for charters in meeting their special ed obligations. Much of the work of the CFNN working group to date is posted on the CFNN Web site at: http://www.charterfriends.org/cfi-specialed.html

During the coming year, priorities include creation and dissemination of a state-by-state data collection template to document innovative service delivery in the area of special education. Individual state representatives on the Working Group will be completing this data collection template in the coming months. Future initiatives for the Working Group also include strengthening the special ed technical assistance capacity of state-level charter support organizations, outreach to disability advocacy organizations and providing input to the Department of Education and Congress on policy matters relating to charters and special ed.

Purpose of Guide

This resource guide provides an overview of special education laws and issues related to K-12 education for those interested in starting or currently operating a charter school, for host or sponsoring school districts, and for state departments of education. As mentioned throughout, it is essential that charter school operators and staff who are in any way responsible for the education of students with disabilities become fully familiar with federal and state laws, regulations and policies that apply to the provision of special education in charter schools. This guide is meant to provide a framework for those needing information about special education issues that impact on charter schools, and to advise charter schools of the rights of children with disabilities and their obligation to serve them.

TABLE OF CONTENTS

INTRODUCTION	1
Charter schools and the school choice movement	1
Charter schools and special education	3
Issues to consider	4
A BRIEF HISTORY OF SPECIAL EDUCATION	5
STATUTORY AND CASE LAW REQUIREMENTS FOR SPECIAL ED	5
Six major legal concepts for delivering special education	6
What is the law concerning educating students with disabilities?	8
What are the ground rules for confidentiality and IDEA?	10
How is a disability defined under IDEA?	10
What steps must schools follow to provide special ed services to a student with a disability?	11
What is an individualized education program (IEP) and how is it implemented?	12
What are related services?	14
Are students with disabilities re-evaluated?	14
What if parents do not want their child to receive special services or disagree with the recommended services?	15
What are transition services and how are they implemented?	15
How is special education funded?	15
What are the essential components of a special education program that charter schools should consider?	16
What about laws pertaining to the civil rights of students attending charter schools?	17
What about discipline?	18
ISSUES FOR CHARTER SCHOOLS IN THE IMPLEMENTATION OF SPECIAL EDUCATION	19
What is the philosophical orientation of the school toward serving students with disabilities?	19
How will staff identify, refer and evaluate students with special needs?	20
Who is responsible for serving students with disabilities?	20
What steps must charter schools take to ensure that appropriate services are provided to students with low-incidence disabilities?	21
Who pays for the services?	22
How will transportation needs be met?	22
What personnel certification and licensure issues need to be considered?	22
Can charter schools serve only students with special needs?	23

Can charter schools receive waivers for certain special education requirements? 23
What if the charter school has individualized learning plans for all students? Do they still need to complete an IEP? 23
What if a charter school is not an appropriate placement for a child with a disability? 24
What if a child's special education needs change after enrollment in a charter school? 24
Is the charter school legally liable in the area of special education? 24

CONCLUSIONS AND RECOMMENDATIONS 25
For charter school personnel 25
For state agency personnel 26

APPENDIX: ADDITIONAL SOURCES OF INFORMATION 28

Introduction

Charter schools are fast becoming the most visible form of school choice in the country. As of June 2000, 36 states and the District of Columbia had passed charter school legislation. This legislation allows teachers, parents, community groups, business leaders, and others the opportunity to open a new public school, or convert an existing school, with some degree of independence from established school districts. There are many challenges to starting and maintaining a new school without the traditional infrastructure available through an existing school district or private school organization. One of the challenges is the implementation of special education services.

Knowing what to expect and the questions to ask in the area of special education is essential for all charter schools.

Consider the following possibilities:

- Staff at a newly opened charter school believe they can provide educational services to students with disabilities within the model they have designed without providing special education. Can they?
- The director of a newly opened charter school is told the school district in which the charter school is located will provide special education services. What is the responsibility of the charter school in such a case?
- Staff members of a charter school have followed procedures and have identified students in need of special education. How do they receive funding?
- A parent requests additional services from a charter school and tells the school she will request a due process hearing to obtain the services she wants for her child. The charter school must obtain legal advice. Who is responsible for the fees? Is there another way to resolve the issue?

Each of these scenarios is a realistic possibility in a charter school. These situations can be difficult to manage and result in the financial risks of non-compliance including compensatory educational services and attorney's fees as well as program disruptions caused by state and federal interference as a result of complaints. This can be just some of the results if staff are unaware of special education laws and procedures, or if they do not have the expertise for providing special services. Knowing what to expect and the questions to ask in the area of special education is essential for all charter schools.

Charter schools and the school choice movement

The first public charter school opened in Minnesota in 1992. Since that time, nearly 2000 charter schools have opened in 34 states and the District of Columbia. Charter schools vary from other school choice options in that they allow interested individuals to open a new public school or convert an existing school to a charter school. These schools are often financially and legally independent from a school district, although state laws should be consulted for specific status.

There are a number of definitions that have been applied to charter schools. The Federal Charter Schools Expansion Act of 1998 defines a charter school as a public school that:

The variability in the laws means that charter schools operate differently depending upon the state legislation under which the charter schools are approved.

(A) in accordance with a specific State statute authorizing the granting of charters to schools, is exempted from significant State or local rules that inhibit the flexible operation and management of public schools, but not from any rules relating to the other requirements of this paragraph;

(B) is created by a developer as a public school, or is adapted by a developer from an existing public school, and is operated under public supervision and direction;

(C) operates in pursuit of a specific set of educational objectives determined by the school's developer and agreed to by the authorized public chartering agency;

(D) provides a program of elementary or secondary education, or both;

(E) is nonsectarian in its programs, admissions policies, employment practices, and all other operations, and is not affiliated with a sectarian school or religious institution;

(F) does not charge tuition;

(G) complies with the Age Discrimination Act of 1975, title VI of the Civil Rights Act of 1964, title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, and part B of the Individuals with Disabilities Education Act;

(H) is a school to which parents choose to send their children, and that admits students on the basis of a lottery, if more students apply for admission than can be accommodated;

(I) agrees to comply with the same Federal and State audit requirements as do other elementary and secondary schools in the State, unless such requirements are specifically waived for the purpose of this program;

(J) meets all applicable Federal, State, and local health and safety requirements;

(K) operates in accordance with State law; and

(L) has a written performance contract with the authorized public chartering agency in the State that includes a description of how student performance will be measured in charter schools pursuant to State assessments that are required of other schools and pursuant to any other.

There is wide variability in charter school law at this time with some states allowing unlimited numbers of charter schools, while other states restrict the number. Some states allow complete independence from a local school district, while others require local school board permission before a school can open. The variability in the laws means that charter schools operate differently depending upon the state legislation under which the charter schools are approved.

The orientation of charter schools also varies greatly. Some schools are designed for specific student populations, others provide a unique or specific curriculum, and others are designed with governance and parent involvement components that are integral to their mission. It is beyond the

scope of this resource guide to provide a detailed explanation of the charter school movement. An excellent source for that information is a recent book detailing charter schools by Joe Nathan cited in the Bibliography.

Charter schools and special education

One of the aspects of charter schools that is often cited as the most significant advantage is the right to operate without the burden of certain regulations. However, it is essential that everyone involved with charter schools understand that no exemption can be granted from any federal disability law or regulation, including Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act (ADA), and the Individuals with Disabilities Education Act (IDEA). A state may waive portions of its own state laws and regulations that go beyond federal requirements or the requirement to abide by school district regulations, but no waiver is possible from federal requirements pertaining to students with disabilities.

No exemption can be granted from any federal disability law or regulation.

With the wide range of students and school orientations that charter schools have, how do state charter school laws address special education and special needs populations? A review of the charter school laws reveals very few special education guidelines for individuals considering sponsoring or applying for a charter school.

Most states specify that charter schools may not discriminate against students with disabilities, and some states require that a certain number of charter schools serve at-risk student populations; but, there is little to no guidance in charter school legislation on how students with disabilities should be served once a charter school is established.

In addition, there are few research findings on the implementation of special education services in charter schools. A summary of recent and on-going research efforts and documents available in the area of special education are available online at the following web site address: http://www.uscharterschools.org/cs/uscsp/query/q/112?topic=24&x-title=Resources+on+Special+Education.

Since few guidelines or research findings are available, charter school operators should obtain complete information about laws and regulations that apply to the provision of special education, just as they must do for other applicable educational requirements. Relevant materials are available through the department of education in some states. Charter schools may also find valuable information through charter school resource centers and other state and federal support organizations. Copies of federal regulations governing the education of disabled students can also be obtained from the U.S. Department of Education's Office of Special Education Programs and Office for Civil Rights.

Issues to consider:

Individuals involved in the development or monitoring of charter schools have several issues to consider as they consider special education services. Three questions summarize the major areas:

1) Who is responsible for providing special education services?
Which educational entity takes responsibility for the delivery of special education service within a charter school may vary depending upon the state or even the school district in which the charter school is located. In some cases, the charter school may find itself totally responsible for identification, assessment, and service delivery. In other cases, these tasks are deemed the responsibility of the sponsoring or host district. In yet other cases, responsibility for these services may be negotiated with the sponsoring district or the district in which the charter school is located. Ultimately, the state is responsible to ensure that every eligible student with disabilities receives a free appropriate public education (FAPE).

Charter school operators must determine who will deliver special education services and where the services will be delivered.

2) How are special education services delivered?
One of the first issues to address is how the delivery of special education services will align with the charter school's mission and goals. In addition, charter school operators must determine *who* will deliver special education services and *where* the services will be delivered. Central to this process is understanding how special education laws will be implemented within the context of the charter school. Charter school operators need to understand federal and state special education laws and regulations as they consider service delivery issues.

3) How are special education services funded?
In order to receive payment for special education services, charter schools must be aware of the requirements and the procedures for obtaining funding. Special education funds involve federal, state and local levels of government and may be distributed differently in each state. Again, a clear understanding of state policies and procedures is critical for charter school operators. Each of these questions must be addressed when considering opening and operating a charter school and implementing programs for students with disabilities.

Answers to the questions will affect how special education is delivered at individual charter schools. The answers, however, may differ depending upon an individual school's charter, the state's charter school law, and negotiated arrangements.

The remainder of this resource guide provides information on issues that may arise when charter school staff and parents consider special education. It begins with a brief introductory background on special education law. The remaining material is presented in question-and-answer format to enhance access and clarity. This document is offered in the hope that

understanding the issues and the laws protecting the rights of students with disabilities will help those involved to avoid preventable problems in charter school program planning and implementation and enhance results for students with disabilities who attend charter schools.

A Brief History of Special Education

Access to equal educational opportunity and due process was a hard fought battle for children with disabilities and their families. Educational opportunity for children with disabilities has changed dramatically due to court decisions, legislative rulings and initiatives. As charter schools implement programs and services for students with disabilities, it is important to understand why the protection is so valued and important to children with disabilities and their families.

For most of the nation's history, children with disabilities were not given a right to the same educational opportunities as their nondisabled peers. Children with disabilities could be excluded from a public education, and it was not until the 1950s that educational practices in place for more than a century were successfully challenged. In the late 1960s and early 1970s, several federal and state court decisions struck down state laws that denied an equal educational opportunity to students now covered by federal disability laws.

The Individuals with Disabilities Education Act and Section 504 of the Rehabilitation Act serve as the cornerstone of legislation that protects the educational rights of children with disabilities.

In 1973, Section 504 of the Rehabilitation Act established a protection against discrimination for students with disabilities. Then in 1975, Congress enacted Public Law 94-142, the Education for All Handicapped Children Act, requiring states to adopt goals ensuring full educational opportunity for children with disabilities as a condition for receiving federal funds. This law was designed to make a free appropriate public education available for children with disabilities.. It has since been renamed the Individuals with Disabilities Education Act (IDEA) with modifications added through the years.

Statutory and Case Law Requirements for the Education of Children with Disabilities

The IDEA and Section 504 serve as the cornerstone of legislation that protects the educational rights of children with disabilities. The IDEA and its regulations provide the procedural road map for teachers, parents, administrators, and state education agencies as they adopt policies and procedures for educating all students within their states, schools, and school districts. Understanding IDEA and the legal concepts that are the foundation of the law is essential for all charter school operators as they contemplate how they will provide special education services.

Six major legal concepts for delivering special education

The following six concepts underlie special education statutes, regulations, and case law (Fiedler & Prasse, 1996) and form the basis for delivering special education in charter schools:

1) Zero Reject

Federal law requires that all children are to be afforded an equal education opportunity and states may not deny an education on the basis of a disability. Although there are some variations based on state law, this principle generally applies to all children beginning at age three through age 21 inclusive.

2) Individualized Education Program

The IDEA requires that a written statement called an Individualized Education Program (IEP) must be developed in accordance with IDEA regulations for all students identified as having a disability and in need of special education services. In general, the IEP includes current educational level, annual goals, specific educational objectives, special education and related services to be provided, dates for initiation of service, anticipated duration of service, and evaluation criteria. Under certain circumstances, there are other requirements such as a plan for transition services for students ages 14 and older. *{IDEA Regulations §300.340}*

3) Free Appropriate Public Education (FAPE)

What constitutes an appropriate program for an individual student is to be determined on a case-by-case basis depending on the unique needs of that student.

What is deemed "appropriate" is not specifically defined in IDEA. Court decisions over the years have helped define appropriate in specific instances. What constitutes an appropriate program for an individual student is to be determined on a case-by-case basis depending on the unique needs of that student. Through mediation or due process procedures, both parents and school districts may challenge the appropriateness of a special education program for an individual child.

4) Least Restrictive Environment (LRE)

The IDEA provides that students with disabilities must be educated to the maximum extent appropriate with their nondisabled peers. The law expresses a preference, not a mandate, for educating students with disabilities in regular classes with appropriate supplementary aids and services. Several highly publicized circuit court decisions (e.g., *Daniel R.R. v.Texas State Board of Education,* [1989]; *Oberti v. Bd. of Educ. of the Borough of Clementon)* have construed the LRE provision and have enumerated three factors to consider when determining whether a placement is appropriate. Although circuit court cases are not binding in all areas, the factors provide useful questions to consider:

- How do the educational benefits available to the disabled student in the traditional classroom compare with appropriate supplementary aids and services, and the benefits available to that student in a special education classroom?
- What are the non-academic benefits to the students with a disability from interacting with nondisabled students? and,
- What degree of disruption of the education of other students may result from the inability to meet the unique needs of the disabled student?

5) Due Process and Parental Involvement

Due process considerations are central to the implementation of IDEA. Parents must be notified of the intent to evaluate their child for services, and they must consent to an initial evaluation before the process begins. They must also be involved in the IEP process and provide consent to the initial placement and provision of services. Consent means parents have been fully informed in their native language or other mode of communication, understand and agree in writing to the plan and the release of specific records, and understand that consent is voluntary and may be revoked at any time. As in other instances, state special education laws sometimes add to the federal requirements. *{IDEA Regulations §300.500}*

Parents must be notified of the intent to evaluate their child for services, and they must consent to an initial evaluation before the process begins.

6) Nondiscriminatory Evaluation

There are specific legal requirements that have been put in place concerning the evaluation of children. It is important to understand that IDEA and other tests and evaluation materials are required to be:

- provided and administered in the child's native language or other mode of communication;
- validated for the specific purpose for which they are used;
- administered by trained personnel;
- tailored to assess specific areas of educational need and not merely those designed to provide a single general intelligence quotient; and,
- reflective of the child's aptitude or achievement and not reflective of the child's impaired sensory, manual, or speaking skills.

What is the law concerning educating students with disabilities?

Both federal and state law governs special education. It is important that charter school personnel be familiar with their state's specific legislation and regulations for special education programs and services. For the most part, state rules mirror federal requirements, but some states have additional components or have expanded the specifications of the federal mandates. There are three federal laws with implementing sets of regulations that govern the provision of special education for students with disabilities in all states. The following is a summary of some of the major points of the federal laws.

For the most part, state rules mirror federal requirements, but some states have additional components or have expanded the specifications of the federal mandates.

Section 504 and the Americans with Disabilities Act

There are two federal laws enforced by the U. S. Department of Education's Office for Civil Rights (OCR) that govern the provision of educational services to students with disabilities. Meeting the requirements of these laws is a condition of receiving any federal financial assistance including IDEA funds. *Section 504* prohibits discrimination on the basis of disability by recipients of federal funds. The Section 504 regulation contains free appropriate public education requirements that are similar to the IDEA Part B requirements.

In addition, Title II of the *Americans with Disabilities Act of 1990 (ADA)* extends Section 504's prohibition against discrimination on the basis of disability to all activities of state and local governments, whether or not they receive federal funds. This includes school districts that receive federal funds as well as entities such as public libraries that do not receive federal funds. Individuals who may not be eligible for services under IDEA still may be covered by Section 504 and ADA, and states may be required to extend the protections of those laws to students covered by those laws who attend charter schools.

Individuals with Disabilities Education Act (IDEA)

Public Law 94-142, originally named The Education of All Handicapped Children Act, was passed in 1975 and its most recent changes were contained in the 1997 amendments to the law followed by a revised set of regulations. To obtain a copy of the law and its regulations, see the Office of Special Education Programs website at: http://www.ed.gov/offices/OSERS/IDEA/the_law.html.

The purposes of the law are:

(1) (A) to ensure that all children with disabilities have available to them a free appropriate public education that emphasizes special education and related services designed to meet their unique needs and prepare them for employment and independent living;

(B) to ensure that the rights of children with disabilities and parents of such children are protected; and
(C) to assist States, localities, educational service agencies, and Federal agencies to provide for the education of all children with disabilities;

(2) to assist States in the implementation of a statewide, comprehensive, coordinated, multidisciplinary, interagency system of early intervention services for infants and toddlers with disabilities and their families;

(3) to ensure that educators and parents have the necessary tools to improve educational results for children with disabilities by supporting systemic-change activities; coordinated research and personnel preparation; coordinated technical assistance, dissemination, and support; and technology development and media services; and,

(4) to assess, and ensure the effectiveness of, efforts to educate children with disabilities.

The IDEA provides federal funds to assist states and localities in the education of children with disabilities. In order to receive the funds, states must ensure that:

- All children with disabilities ages 3 through 21 have available to them a Free Appropriate Public Education (FAPE) including students who have been suspended or expelled.
- Education will be based on a complete non-discriminatory individual evaluation.
- An Individualized Education Program (IEP) will be provided for each child being served in special education.
- Children will be educated in regular classes with their nondisabled peers with appropriate supplementary aids and services to the maximum extent appropriate.
- Parents must give consent for an initial evaluation, initial placement and re-evaluation, be notified of any change in placement that may occur, and be invited, along with teachers, to conferences and meetings to develop individual education programs. *{See IDEA Regulations §300.505}*
- Parents have the right to initiate a complaint or request mediation or a due process hearing to challenge a decision regarding the identification, evaluation, or educational placement of their child. A hearing decision may be appealed to an appropriate state or federal court.
- Parents have the right to examine their child's education records. IDEA contains confidentiality requirements that include those in the Family Educational Rights and Privacy Act of 1974.
- Clear communication to parents that education and related services are provided at no cost to them.

The IDEA provides federal funds to assist states and localities in the education of children with disabilities.

- School systems will carry out a systematic search (referred to as Child Find) for every child with a disability in need of special education and related services.

As schools under the jurisdiction of the state, charter schools are bound by IDEA. Amendments made to IDEA in 1997 specifically address the topic of charter schools. The final regulations applicable to charter schools are divided into three categories:

- Relevant to all types of charter schools:
  - "...Representatives of private schools and public charter schools" must be included on state advisory panels.
- Relevant to charter schools that are independent LEAs:
  - Defines "local education agency," and makes charter schools that are LEAs eligible for state sub grants;
  - Allows states to require LEA charter schools to establish eligibility jointly with another district if not able to meet needs of students with disabilities effectively;
  - Makes charters eligible to apply for projects under state discretionary funds.
- Relevant to charter schools that are a part of an existing LEA:
  - Requires states to ensure that LEAs serve students with disabilities in the same way that they serve these students in other schools and provide funds to those charter schools in the same way as it provides funds to other schools in the district. *(See IDEA Regulations §300.312)*

What are the ground rules for confidentiality and IDEA?

Parents have the right to examine their child's education records. IDEA contains confidentiality requirements that include those in the Family Educational Rights and Privacy Act of 1974 (FERPA). While FERPA does not protect the confidentiality of information in general, it prohibits the improper disclosure of information from education records and generally protects student and family privacy regarding information in those records. Information from education records may not be disclosed to third parties without obtaining the prior written consent of the parent or eligible student over eighteen years of age, unless one of the exceptions to the prior written consent requirement is applicable.

IDEA law and regulations specify 13 categories of disabilities.

How is a disability defined under IDEA?

IDEA law and regulations specify 13 categories of disabilities, which are:

- autism
- deaf-blindness
- deafness
- emotional disturbance
- hearing impairment
- mental retardation
- multiple disabilities
- orthopedic impairment
- other health impairment
- specific learning disability
- speech or language impairment
- traumatic brain injury
- visual impairment

An evaluation is conducted when a student is suspected of having a disability. Parents, students, or school personnel may request an evaluation.

In addition, at the discretion of the state and the local school district, the term developmental delay may be used for children aged 3 through 9. *{See IDEA Regulations §300.7}*

What steps must schools follow to provide special education services to a student with a disability?

The following is a summary of the general steps that are prescribed by IDEA for providing educational services to a child with a disability.

1) Evaluation

An evaluation is conducted when a student is suspected of having a disability. Charter schools have an obligation to "locate and identify" children with disabilities under the "child find" requirements of the IDEA. It must be a comprehensive and individual evaluation in all areas related to the suspected disability. As mentioned above, parental written consent must be obtained before an evaluation can be conducted. A notice must include, among other things, what is being proposed, reasons for proposal, evaluation procedures, and an explanation of parent rights and procedural safeguards. Parents, students, or school personnel may request an evaluation.

2) Evaluation Process

Evaluations must be conducted by a team that is required to include a representative of the school administration, the parent, and at least one teacher or other specialist familiar with the suspected disability. The results of the evaluation must be based on more than a single procedure or assessment and tests must not be racially or culturally biased. The student must be assessed in all areas related to the suspected disability. These related areas must include if appropriate: health, vision, hearing, social and emotional status, general intelligence, academic performance, communicative status, and motor abilities. *{See IDEA Regulations §300.532}*

3) Evaluation Results

Results from assessments are reviewed by the team to determine eligibility for special education and related services. In some states, placement decisions are made by the IEP team, while in other states the placement team is a different group. A parent must be a member of the IEP team and the group making placement decisions.

What is an individualized education program (IEP) and how is it implemented?

As defined in the IDEA regulations, "the term individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised" in an IEP meeting.....*{See IDEA Regulations §300.340}* The term "IEP" is used in many ways: the IEP meeting, the IEP team, the IEP process, and the IEP document. The overall IEP requirements have a number of purposes and functions:

"The term individualized education program or IEP means a written statement for a child with a disability that is developed, reviewed, and revised" in an IEP meeting.....
{ IDEA Regulations §300.340}

- *The IEP meeting* serves as a communication vehicle between parents and school personnel, and enables them, as equal participants, to jointly decide what the child's needs are based on evaluations, what services will be provided to meet those needs, and what the anticipated outcomes may be.
- *The IEP team* is known by other names in some states such as the "assessment and review team." The IDEA regulations define the required participants including the parents of the child, specific school personnel and, if appropriate, the child. *{See IDEA Regulations §300.344}*
- *The IEP process* provides an opportunity for resolving any differences between the parents and the school concerning the special education needs of a child with a disability; first, through the IEP meeting, and second, if necessary, through the procedural protections that are available to the parents.
- *The IEP document* sets forth in writing a commitment of resources necessary to enable a child with a disability to receive needed special education and related services. It is a

management tool that is used to ensure that each child with a disability is provided special education and related services appropriate to the child's special learning needs. The IEP is a compliance/ monitoring document that may be used by authorized monitoring personnel from each governmental level to determine whether a child with a disability is actually receiving the FAPE agreed to by the parents and the school. The IEP also serves as an evaluation device for use in determining the extent of the child's progress toward meeting the projected outcomes.

The IEP document is a management tool that is used to ensure that each child with a disability is provided special education and related services appropriate to the child's special learning needs.

IEP meetings are particularly important to ensure that the student's needs are discussed fully by parents and school personnel so that informed decisions can be made about the child's instruction and services. An IEP document will include information about the following:

- a statement of the child's present levels of educational performance including how the disability affects involvement and progress in the general curriculum;
- a statement of measurable annual goals, including benchmarks or short-term objectives;
- a statement of the special education and related services and supplementary aids and services to be provided to the child with a statement of program modifications or supports for school personnel that will be provided for the child;
- an explanation of the extent, if any, to which the child will not participate with non-disabled children in the regular classroom and other school activities;
- a statement of any individual modifications in the administration of statewide or district-wide assessments of student achievement that are needed for participation or a statement explaining why the child will not participate in these assessments and how the child will be assessed;
- the projected date for the beginning, frequency, location and duration of the services and modifications being provided;
- a statement of how the child's progress toward the annual goals will be measured and how the child's parents will be regularly informed at least as often as parents are informed of their non-disabled children's progress;
- beginning at age 14, a statement of the transition service needs of the child with a focus on the child's courses of study;
- beginning at age 16, or younger of the IEP deems appropriate, a statement of transition services for the child including a statement of interagency responsibilities or needed linkages
- beginning at least one year before the child reaches the age of minority under state law (in a

state that transfers rights to a child at age of majority), a statement that the child has been informed of his or her rights, if any, that will transfer to the child on reaching the age of majority. *{See IDEA Regulations §300.347}*

What are related services?

Related services are supportive services to assist a child with a disability to benefit from special education. Related services and, if indicated, the need for assistive technology services or devices (e.g., an item, piece of equipment, or product used to increase, maintain, or improve functional capabilities of children with disabilities) are also determined at the IEP meeting and listed on the IEP. If related services are required, the school must provide these services at no cost to the parent. Related services include:

Related services are supportive services to assist a child with a disability to benefit from special education.

- transportation
- speech-language pathology
- audiology
- psychological services
- physical and occupational therapy
- recreation, including therapeutic recreation
- early identification and assessment of disabilities in children
- counseling services, including rehabilitation counseling
- orientation and mobility services
- medical services for diagnostic or evaluation purposes only
- social work services in schools
- parent counseling and training

{See IDEA Regulations §300.24}

Are students with disabilities re-evaluated?

A *review* of the IEP to determine whether goals have been met is conducted at least once a year at which time a new IEP is written for the next year. A *re-evaluation* must take place at least every three years after placement in special education. At the point of *re-evaluation,* the IEP team decides if formal re-testing is needed to create an appropriate IEP. Re-evaluations will be conducted more frequently if requested by the teacher, staff, or parents, or if conditions warrant. *{See IDEA Regulations §300.321 and 300.343c}*

What if parents do not want their child to receive special education services or disagree with the recommended services?

Parents can deny permission to have their child evaluated or to initially receive special education by denying consent in writing and submitting it to the school. Some states have established procedures for schools and school districts to follow if school personnel want to pursue the recommended evaluation or placement despite parental opposition. Parents must be notified if the school decides to continue seeking placement.

Parents can deny permission to have their child evaluated or to initially receive special education by denying consent in writing and submitting it to the school.

If parents disagree with recommended instruction and services and the IEP cannot be agreed upon through the IEP process, parents can 1) consult with staff members about the IEP; 2) request an IEP review; 3) request a negotiation or mediation with the school; 4) use the state complaint procedures or, 5) initiate an impartial due process hearing.

What are transition services and how are they implemented?

IDEA requires that the IEP Team consider the need for transition services for students with disabilities beginning at the age of 14. IEPs must state the transition services needs of the child, with a focus on the child's courses of study. Beginning at age 16, or younger if appropriate, a statement of needed transition services including the responsibilities of the school and outside agencies for providing or paying for transition services, must be included on the IEP. Transition services are defined as "a coordinated set of activities for a student with a disability, designed within an outcome-oriented process, that promote movement from school to post-school activities."

How is special education funded?

The federal government provides approximately 12% of special education costs. State and local funds support the bulk of the education of children with disabilities. The manner in which state and local funds are used by schools and school districts varies by state.

It is imperative that charter school operators learn how special education funds are handled in their state. They must determine what conditions they must meet in order to receive special education funds, and how special education funds are disbursed to the school or school district. Payment of special education funds usually involves documentation of services, personnel, and related services. Setting up a resource management system is important when dealing with the reimbursement of special education funds. Whether the state or sponsoring school district can assist in this process will be determined by the state law or by the relationship between the

charter school and the sponsoring district. Some charter schools have hired consultants to assist in the development of a system for fund reimbursement. It can be quite complicated and time consuming, and the advice of an experienced special education administrator or business manager can save the charter school considerable time and resources.

Many services, including the cost of some types of consultants, are allowable expenditures with IDEA funds. Understanding which expenses can be reimbursed, at what rate, and what needs to be documented is an important part of operating a charter school. It is always helpful to remember that the intent of state and federal law is to ensure that children and youth with disabilities receive FAPE.

What are the essential components of a special education program that charter schools should consider?

Below is a summary of some of the elements of special education that may be helpful for charter schools to consider when establishing special education services for students with disabilities. They are listed as a starting point for staff and parents at charter schools as they begin the process of providing a free appropriate public education for all eligible students.

Keep in mind that these components are just a starting point for staff and parents as they begin the process of providing a free appropriate public education for all eligible students.

Whether these components are available within the charter school or in conjunction with a school district or state education agency will generally depend upon the charter school law in each state or the specific provisions of each school's charter.

Identification: the continuous and systematic effort to identify, locate, and evaluate students birth through 21, who are in need of special education services.

Referral: a formal process for reviewing information related to students who are suspected of having disabilities and show potential signs of needing special education and related services. Assessment referral is the process of looking at all relevant educational information and making a decision about whether or not to conduct a formal educational assessment.

Assessment: the process of utilizing formal and informal procedures to determine specific areas of a person's strengths, needs, and eligibility for special education services.

Service delivery: the system to ensure that a *continuum of alternative placements* is available to meet the needs of students with disabilities for special education and related services and that LRE issues are considered in placement decisions.

Staffing: refers to the identification of the required and qualified personnel to deliver the prescribed program according to a student's needs.

Facilities: the actual locations of schools and classrooms and the settings which allow students with disabilities access to programs and interactions with students who do not have disabilities.

Parent involvement and rights: refers to the parental rights and responsibilities, according to state and federal laws, rules, and regulations, in all aspects of acquiring, developing, planning, and implementing special education and related services for students with disabilities and any legal challenges to any aspect of a free appropriate public education.

Personnel development: the structure for personnel planning that focuses on pre-service and in-service needs in order to plan a program to meet the needs of pupils with disabilities.

Interagency relations: refers to the collaboration and coordination of agencies to provide services to pupils with disabilities.

Transportation: for students with disabilities, transportation necessary to provide the components of an IEP is considered a related service that must be provided at no cost to parents.

Instructional resources: refers to the specific supplies, equipment, and instructional materials appropriate to meet the needs of individual pupils with disabilities.

Coordination with other educational programs: the process that schools or districts use to provide special education within the context of all other educational programs. It is important that access to the general education curriculum be provided for all students with disabilities to the maximum extent possible.

It is important that access to the general education curriculum be provided for all students with disabilities to the maximum extent possible.

Fiscal resources: the means for purchasing and/or obtaining the supplies, materials, equipment, services, and personnel required to provide programs for pupils with disabilities.

Reporting: refers to the data and financial accounting that must be submitted to state and federal agencies, and supporting documentation that provides the required information for an audit.

Governance: the administrative structure and long-range plans through which the special education system operates.

What about laws pertaining to the civil rights of students attending charter schools?

The Office for Civil Rights, in its enforcement role of section 504, issued *Applying Federal Civil Rights Laws to Public Charter Schools Questions and Answers,* in May of 2000. This document answers civil rights related questions that charter school leaders are asking regarding the students they serve. The major areas covered in this document are:

- Responsibility for Civil Rights Compliance
- Recruitment and Admissions
- Schools Affected by Desegregation Plans or Court Orders
- Selection of Facilities to Provide Access to Students with Disabilities
- Educating Students who are Limited English Proficient
- Educating Students with Disabilities

To access a copy of the document in its entirety, reference the U.S. Charter Schools website at http://www.uscharterschools.org/pub/uscs_docs/fr/civil_rights_sub.htm. It is essential that charter school operators be familiar with the information in this document.

What about discipline?

There has been considerable debate over discipline procedures for students with disabilities. The IDEA 1997 Amendments prescribe specific procedures for disciplinary actions that involve students with disabilities. It is beyond the scope of this document to cover all aspects of the changes related to disciplinary procedures. The U. S. Department of Education Office of Special Education Programs (OSEP) has available on its website a number of resources related to discipline. One, *Prevention Research and the IDEA Discipline Provisions: A Guide for School Administrators*, contains the following summary of the major legal requirements.

What the Law Allows: Procedural Considerations:

- School personnel can remove a student with a disability for 10 consecutive school days or less at a time for a violation of the school code of conduct (to the same extent applied to children without disabilities). School personnel can immediately remove for up to 10 consecutive school days or less, the same child for separate incidences of misconduct.
- School personnel can also order a change of placement of a child with a disability to an appropriate interim alternative educational setting for up to 45 days for possession of weapons or drugs or the solicitation or sale of controlled substances while at school and school functions.
- If school personnel believe that a child is dangerous to him or herself or others, they can ask a hearing officer in an expedited due process hearing to remove a student to an interim alternative educational setting for up to 45 days.
- 45 day interim alternative educational placements can be extended in additional 45-day increments if the hearing officer agrees that the child continues to be

School personnel can remove a child with a disability, including suspending or expelling for behavior that is not a manifestation of the child's disability, to the same extent as is done for children without disabilities, for the same behavior.

substantially likely to injure himself or herself or others if returned to his or her prior placement.

- School personnel can remove a child with a disability, including suspending or expelling for behavior that is not a manifestation of the child's disability, to the same extent as is done for children without disabilities, for the same behavior.
- School personnel can report crimes to appropriate law enforcement and judicial authorities.
- School personnel can always ask a court for a temporary restraining order in order to protect children or adults from harmful behaviors. *(See IDEA Regulations §300.519-529 and 521(d))*

ISSUES FOR CHARTER SCHOOLS IN THE PROVISION OF SPECIAL EDUCATION

Charter schools are forging new territory in education and there are issues that arise when considering special education in this new educational entity. How charter school laws and special education laws interact and are implemented together raise several issues for persons operating or contemplating opening a charter school. The State Education Agency (SEA) has the ultimate responsibility for ensuring the provision of FAPE for each student with disability who resides in that state.

Below are a list of questions that those associated with charter schools should consider as they design and establish their schools. There are no conclusive answers to some of these questions. In some cases, specific answers are not yet avail-able; in other cases, the answer depends upon a state's charter school law. They are, however, important issues, and their careful consideration may help charter schools find appropriate direction for the proper implementation of special education.

By their very nature, charter schools have a particular orientation toward the delivery of educational services that may be manifested in a specific curriculum, student population, or parent focus.

What is the philosophical orientation of the school toward serving students with disabilities?

By their very nature, charter schools have a particular orientation toward the delivery of educational services that may be manifested in a specific curriculum, student population, or parent focus. Even before opening, charter school personnel need to ask themselves how they intend to serve students with disabilities and how their school mission aligns with their vision of special education. Laws protecting the rights of students with disabilities do not prescribe a particular service delivery model. As discussed in previous sections, what is important is that the school follow the requirements delineated in IDEA and assure that there is no discrimination for educational service based on disability status. If IDEA provisions are followed, a charter school

can develop a model for special education delivery that is both legally sufficient and in line with their mission.

Ideally, special education should be considered from the start of the charter school's design so as to align the school's mission for all students. Viewing special education within the context of the charter school's mission may move the whole school toward a more innovative model of educational delivery. Some of the questions that charter school operators should ask themselves at this stage are:

- Are unique opportunities available for students with disabilities to receive services within the innovative model available for students without disabilities?
- Can charter schools use their independent status to create innovative models of special education service delivery consistent with IDEA?

How will staff identify, refer and evaluate students with disabilities?

It is important that the charter school has a process in place for the identification of students with disabilities and the provision of services as contained in each IEP for those students who enroll and already have an IEP. On this point, charter schools must respond to:

It is important that the charter school has a process in place for the identification of students with disabilities and the provision of services as contained in each IEP for those students who enroll and already have an IEP.

- Who is responsible at the school for identification?
- How will students be evaluated?
- What role will the host or sponsoring school district play in identification of students with disabilities?
- How will the charter school deal with an IEP written by another school or school district?
- Who will make decisions about special education services?
- Will an IEP team be in place prior to the opening of the school to deal with evaluation questions and concerns?

Who is responsible for serving students with disabilities?

Those interested in opening a charter school should determine how the law is being interpreted in their state with regard to responsibility for serving students with disabilities. Responsibility may lie with the charter school, the sponsoring or host district, the state directly, or some other educational entity.

Whether it is required or not, this issue is best addressed in the school's mission statement and/or

initial operating plan. If the charter school is responsible for all special education and related services, it must be decided how, by whom, and where service may be provided, including allocating resources, both in personnel and in funds. If the state charter school law allows for negotiated agreements between the charter school and school districts or other educational organizations, these agreements are best negotiated prior to opening the charter school to alleviate any confusion over responsibility. Charter school personnel should seek the best advice to determine responsibility of service delivery and have a plan for providing service. Some questions to ask state charter school officials are:

- Who is responsible for the identification of children with disabilities at the charter?
- Who will provide the assessments?
- Will funds be available to provide these assessments?
- Who is responsible for delivering special education and related services?
- Where will service take place (e.g., If the host district provides services, will it occur at the charter school or in one of the host district's schools)?
- Whose staff will provide service?
- Can the delivery of services be shared with the sponsoring or host district or does the school need to provide all services?
- Will the state agency provide assistance in organizing the special education financial management system?

What steps must charter schools take to ensure that appropriate services are provided to students with low-incidence disabilities?

Some students with disabilities that are considered low incidence (e.g., deafness, blindness, autism, etc.) may enroll in the charter school. Providing services to these individuals, when the school is often small with limited resources, may be difficult. Again, it is necessary to receive clarification from the state education agency about providing service to students with low incidence disabilities. If the charter school does not have access to all the necessary services, arrangements may be made for working with the host or sponsoring district.

If the charter school does not have access to all the necessary services, arrangements may be made for working with the host or sponsoring district.

The importance of having an IEP team in place to consider identification and program questions is again apparent. Often charter schools do not have special education staff. It may be in their best interest and the best interests of the students with and without disabilities for schools to consider special education teachers as part of their personnel

team or consultative staff. A knowledgeable special educator can help answer these questions or ask state personnel necessary questions about special education service.

Who pays for the services?

Who pays for the services associated with the education of students with disabilities is often an issue and varies from state to state. It is extremely important for charter schools to communicate with the sponsoring or resident school district when determining special education services. Since federal and state funds often do not cover the total costs of implementing an IEP, charter schools may be left with the responsibility of covering the excess costs. If the charter school has negotiated services or payment for services with a host district prior to operation and has planned for the management of the funds, many potential problems can be avoided.

If the charter school staff or designated consultants are not familiar with special education funding requirements and the linkages between other federal and state funding sources (e.g., Title I), they may lose a considerable amount of financial resources that are necessary to operate the school efficiently. The funding of special education is complex for those without experience in the area. It would be extremely helpful for charter schools to receive assistance in this area from their state education agency, or others knowledgeable about special education.

How will transportation needs be met?

Some students with disabilities have transportation services written into their IEP. Determining who is responsible for the costs and logistical arrangements for this transportation is important for charter schools to consider. Does the charter school arrange for transportation? Is transportation the responsibility of the resident district? Are there funds available for the reimbursement of transportation costs? Will these be received at the charter school, or are they paid directly to the transportation provider? Getting the answers to these questions will mean fewer unexpected costs or time burdens for staff.

Charter school personnel should be aware that they may need to develop relationships with a number of schools, school districts, or consulting personnel to fill their need for specialized staff.

What personnel certification and licensure issues need to be considered?

One of the issues to be resolved for charter schools is the availability of special education staff. Often related service staff in the areas of speech and language and psychological services, as well as special education teachers, are in demand by many schools and districts. Charter school personnel should be aware that they may need to develop relationships with a number of schools, school districts, or consulting

personnel to fill their need for specialized staff.

Understanding the requirements concerning staff licensure and special education is important for charter school personnel. IDEA delineates the necessity of a person knowledgeable about the student's suspected disability being involved in the evaluation process. If the charter school does not have a special educator on staff, are there other options available to the school? Can a consultant be hired to do assessments? Are these services reimbursable expenses? What about service delivery? Will services be delivered directly or on a consultant basis? What if the IEP calls for more intensive services? How will the charter school provide these services without a licensed special educator on staff? Charter schools may want to consider a dual certified staff member (certified in special education and another discipline) or outside contractors who have appropriate qualifications and licensure.

Can charter schools serve only students with disabilities?

Some charter schools, such as the Metro Deaf School in Minnesota, are designed for students with disabilities. The Metro Deaf School provides education in American Sign Language as the first language. Those considering opening charter schools should research their state law and how other states are dealing with specialty charter schools. The requirement that charter schools as part of the public education system follow non-discriminatory admission practices is clear in federal and state laws. Consideration must also be given to how LRE (least restrictive environment) requirements for each student will be met.

Some states allow charter schools blanket waivers from most or some of the state education laws, but a state cannot waive the requirements of IDEA or Section 504.

Can charter schools receive waivers for certain special education requirements?

The answer to this question is "maybe." Only those aspects of state special education law that go beyond the federal law may be waived. Some states allow charter schools blanket waivers from most or some of the state education laws, but a state cannot waive the requirements of IDEA or Section 504. Whether a state waives any of its special education requirements should be investigated by the charter school through contacting the appropriate state office.

What if the charter school has individualized learning plans for all students? Do they still need to complete an IEP?

In order to be in compliance with IDEA, a school must follow the procedures outlined in the IDEA and its regulations. It is possible that those requirements may be met by incorporating the procedures into an individualized learning program for a child with a disability. Again, the

specifics of complying with this aspect of IDEA and state law is a topic that should be addressed by charter school operators in consultation with state and district staff.

What if a charter school is not an appropriate placement for a child with a disability?

If a parent seeks to enroll a child with a disability in a charter school, FAPE must be made available to that student at the charter school, or another program that is appropriate for the student must be offered by the entity responsible for educating the disabled student. Enrollment of a student in a charter school is a placement that must be made within the IEP process. If a charter school believes it is not the appropriate program for the student, it should go through the IEP process to discuss the needs of the student. Through this process, an appropriate educational placement and program can be determined. A pre-enrollment meeting or IEP review meeting prior to enrollment can assist parents, teachers, and students in meshing the child's needs with the charter school's services. Such a meeting cannot be designed to screen out the child with a disability but is a strategy to better prepare the school to meet the child's needs.

What if a child's special education needs change after enrollment in a charter school?

Student needs may change after enrollment in a charter school. If parents, school personnel, or the student believe that a student no longer requires special education services or the level of services previously provided, an IEP meeting must be initiated or a reevaluation can be conducted. It is through these procedures that program decisions can be evaluated and changed.

Is the charter school legally liable for providing special education?

Charter schools that fail to admit and educate children with disabilities may be liable for compensatory educational services, damage claims, and attorney's fees.

In some states, charter schools are legally autonomous entities, while in other states they are not. Charter school personnel need to understand the implications of the school's legal status, especially how their status relates to issues that might arise for special education. For example, if a parent initiates a due process hearing about a child's program, a charter school may need to expend funds for legal fees. Charter schools that fail to admit and educate children with disabilities may be liable for compensatory educational services, damage claims, and attorney's fees.

CONCLUSIONS AND RECOMMENDATIONS

A long history of exclusion of children with disabilities from a public education made it necessary to provide a means for ensuring the availability of a free appropriate public education, including applicable due process and procedural safeguards. Federal laws and regulations are designed to protect children and their parents, and also provide a guide for ensuring that the education is individually designed and appropriate to the needs of each child with a disability.

This has meant that educators must be aware of the law and the many provisions outlined in the law. For many charter school personnel, this is new territory. They must establish a system for educating all students, regardless of disability status, in their school, often without the assistance of a larger, experienced special education department.

As policymakers consider charter schools and their impact on the educational system, they should be aware of the many questions that are still unanswered concerning the implementation of special education in charter schools. The variation inherent in this new type of school may require new interpretations and added flexibility in the application of specific requirements. Additional guidance is needed for charter school leaders and the sponsors of these schools.

Charter schools must establish a system for educating all students, regardless of disability status, in their school.

How each state answers the questions presented in this resource guide may influence other policy decisions. Charter schools may also need additional resources as they implement special education. These resources may be in the area of consultative assistance or actual dollars to design and implement the required provisions of IDEA. The following recommendations and suggestions for charter school personnel and state department agency personnel are offered by the authors of this document.

For charter school personnel:

- Consider special education and the charter school's philosophical orientation and mission in relationship to staffing, service delivery, inclusion practices, etc. when writing the charter proposal or planning the school's goals and objectives.
- Outline special education policies prior to opening the school.
- Contact state education agency personnel and ask about all aspects of special education, especially the state charter school and special education laws.
- Determine how special education funding works early in the process of developing the charter school to avoid delays in receipt of funds due to lack of information.

- Determine who will provide special education services prior to opening the school. For a school already in operation, prompt investigation of this issue may essential.
- Consider using a qualified consultant or hiring a staff person to assist in setting up procedures for evaluation teams and financial reimbursements.
- Be consistent in the delivery of educational services for all students and be innovative in special education as well. The laws do not prescribe specific service delivery strategies nor do they preclude new ways of service delivery.

For state agency personnel:

- Provide guidelines that outline for charter school operators, how the state charter law relates to federal disability laws and IDEA.
- Provide required training specific to special education prior to accepting a charter proposal.
- Be prepared to answer questions regarding special education services. Assign a knowledgeable staff person or prepare a fact sheet to assist charter schools in this area.
- Have information available for charter school personnel that can help them understand the complex topic of special education funding and explain what they need to know.
- If the state education agency cannot provide direct service to charter school personnel, provide a list of qualified consultants who might be able to assist them on special education issues.
- Develop coordinated guidelines with the state's special education department, the charter school office or contact person, and other related departments for service specific to the state. School districts and charter schools need to know what is expected of them.
- Charter schools should be included in the state monitoring system in accordance with their legal statutes, i.e., whether the charters are considered separate LEAs or components of another LEA.

By knowing more about the laws and the issues, charter school operators, teachers, and parents will be better able to meet the unique needs of students with disabilities in this new type of school.

This resource guide has summarized some aspects of the charter school movement, the issues that arise when charter schools consider special education and students with disabilities, the rationale behind the laws protecting students with disabilities, and many of the procedures necessary to ensure equal educational opportunity. There are many challenges in starting a new school in areas such as curriculum, finance, enrollment, staffing, etc. The provision of special education is another challenge faced by staff as they open and operate a charter school.

The information presented here is intended to assist charter school operators in knowing the questions to ask and the issues to consider as they begin planning their schools and programs. Students with disabilities and other special needs will be enrolled in charter schools as in all public schools across the country. By knowing more about the laws and the issues, charter school operators, teachers, and parents will be better able to meet the unique needs of students with disabilities in this new type of school.

APPENDIX: ADDITIONAL SOURCES OF INFORMATION

Center for Effective Collaboration and Practice (CECP)
1000 Thomas Jefferson Street NW, Suite 400Washington, DC 20007
(888) 457-1551 (Voice); (202) 944-5400 (Voice)
http://www.air.org/cecp/

Center on Positive Behavioral Intervention and Supports
5262 University of Oregon
Eugene, OR 97403-5262
(541) 346-2505
http://www.pbis.org/english/index.html

Federal Resource Center
Academy for Educational Development
1825 Connecticut Avenue NW
Washington, D.C.
202-884-8000 (Voice); 202-884-8200 (TDD); 202-884-8443 (Fax)
http://www.aed.org/

LD Online
http://www.ldonline.com/

National Association of State Directors of Special Education
1800 Diagonal Road, Suite 320
Alexandria, VA 22314
701-519-3800 (Voice) ; 703-519-7008 (TDD); 703-519-3808 (Fax)
http://www.nasdse.org

National Information Center for Children and Youth with Disabilities (NICHCY)
P.O. Box 1492
Washington DC 20013-1492
800-695-0285 (Voice/TT); 202-884-8200 (Voice/TT); 202-884-8441 (Fax)
nichcy@aed.org
http://nichcy.org/

Office of Special Education Programs (OSEP)
330 C Street SW
Washington DC 20202
http://www.ed.gov./offices/OSERS/OSEP

Technical Assistance Alliance for Parent Centers
PACER Center
8161 Normandale Blvd.
Minneapolis, MN 55437
888-248-0822 (Voice)
http://www.taalliance.org/PTIs.htm

Regional Resource Centers (maintained by OSEP)

Northeast RRC
Learning Innovations/WestED
20 Winter Sport Lane
Willison, VT 05495
802-951-8226 (Voice); 802-951-8213 (TDD); 802-951-8222 (Fax)
http://www.wested.org/nerrc/

Mid-South RRC
University of Kentucky
126 Mineral Industries Building
Lexington, Kentucky 40506-0051
859-257-4921 (Voice); 859-257-2903 (TDD); 859-257-4353 (Fax)
http://www.ihdi.uky.edu/msrrc/

Southeast RRC
Auburn University Montgomery
P.O. Box 244023
Montgomery, AL 36124
334-244-3661 (Voice); 334-244-3800 (TDD); 334-244-3101 (Fax)
http://edla.aum.edu/serrc/serrc.html

Great Lakes RRC
700 Ackerman Road Suite 440
Columbus, OH 43202
614-447-0844 (Voice); 614-447-9043 (Fax)
http://www.glarrc.org/

Mountain Plains RRC
1780 North Research Parkway Suite 112
Logan, Utah 84341
435-752-0238 (Voice); 435-753-9750 (TDD or Fax)
http://www.usu.edu/mprrc/

Western RRC
College of Education
1268 University of Oregon
Eugene, Oregon 97403
541-346-5641 (Voice); 541-346-0367 (TDD); 541-346-5639 (Fax)
http://interact.uoregon.edu/wrrc/wrrc.html

Other Web Sites for Charter School Information

Charter Friends National Network Web Site
(Includes directory of state charter support organizations)
http://www.charterfriends.org/

Charter Schools Office, Central MI University
http://charter.ehhs.cmich.edu/

Charter School Project, Institute for Education Reform, CA State University at Sacramento (Eric Premack)
http://www.csus.edu/ier/charter/charter.html

US Charter Schools Web Site
http://www.uscharterschools.org

About the growing role of "Charter Friends..."

Charter schools depend on the passion and commitment of their founders and their determination to address the educational needs of the students and communities they serve. But even the best charter founders and operators cannot succeed entirely in isolation. They require an infrastructure of technical and informational support to help design quality schools, obtain charters and launch and successfully sustain their operations.

In response to these needs, a number of state and sub-state charter support organizations are emerging throughout the country. Some of these organizations were initially established to help build public awareness and legislative support for passing a charter school law. Once laws are passed, these groups tend to focus their attention on recruiting and assisting charter applicants and providing charter operators ongoing technical assistance and other forms of support.

These so-called "Charter Friends" organizations assist charters with a variety of issues and needs including school planning, governance, financing curriculum, assessment and accountability, facilities and other critical aspects of starting and running high quality schools. Most are privately funded non-profit organizations, but they sometimes charge fees to help cover the cost of their operations. They attract fiscal and administrative support from foundations, businesses, think tanks, academic institutions and individuals. Some have a membership base of schools in their states. They are most often organized at a state level, but sometimes have a more narrow geographic focus within a state.

About the Charter Friends National Network...

Just as no charter school can succeed in total isolation, state and sub-state "Charter Friends" organizations have found value in the relationships and support they gain from each other. With charter schools now authorized in 37 states and the District of Columbia, both the number of these organizations and the potential for mutual shared support have grown rapidly. In response, the Charter Friends National Network (CFNN) was established in late 1996 as a project of the Minnesota-based Center for Policy Studies in cooperation with Hamline University in St. Paul.

CFNN's mission is to promote the charter opportunity by helping to start and strengthen resource centers and other state-level charter support organizations. CFNN pursues its mission through publications, meetings, on-line communications, a grant program and multi-state initiatives on high priority issues. These initiatives currently include accountability, facilities financing, special education and federal policy development. CFNN also coordinates "National Charter School Week."

Charter Friends National Network began as an expansion of the work of Ted Kolderie, senior associate at the Center for Policy Studies and a leader in the national charter movement from its beginning. Its director is Jon Schroeder, a veteran Minnesota policy analyst and former journalist who played a major role in the design and passage of the federal charter grant program as policy director for former U.S. Senator Dave Durenberger. A third founder was Eric Premack, who heads the Charter Schools Development Center at California State University in Sacramento and is one of the nation's top experts on charter school policy and operations. Several nationally-known consultants are also engaged to work on specific CFNN initiatives.

For more information on CFNN and its activities, contact Charter Friends National Network, 1295 Bandana Boulevard, Suite 165, St. Paul, MN 55108; 651-644-6115 (phone) 651-644-0433 (fax); jon@charterfriends.org (e-mail) or www.charterfriends.org (web site).

A project of the Center for Policy Studies in cooperation with Hamline University

1295 Bandana Blvd., #165 • St. Paul, MN 55108 • 651-644-6115 • 651-644-0433 (fax)
jon@charterfriends.org • www.charterfriends.org

U.S. Department of Education
Office of Educational Research and Improvement (OERI)
National Library of Education (NLE)
Educational Resources Information Center (ERIC)

NOTICE

Reproduction Basis

☐ This document is covered by a signed "Reproduction Release (Blanket)" form (on file within the ERIC system), encompassing all or classes of documents from its source organization and, therefore, does not require a "Specific Document" Release form.

☑ This document is Federally-funded, or carries its own permission to reproduce, or is otherwise in the public domain and, therefore, may be reproduced by ERIC without a signed Reproduction Release form (either "Specific Document" or "Blanket").